

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Reeve Wood	Team: Team # 8	CCRB Case #: 200511864	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 09/22/2005 4:15 PM	Location of Incident: Castle Hill Park	Precinct: 43	18 Mo. SOL 3/22/2007	EO SOL 3/22/2007	
Date/Time CV Reported Tue, 10/04/2005 12:55 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 10/04/2005 12:55 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Miguele Amoresano	26572	924884	PSA 8
2. POM George Penrod	25384	913889	PSA 8

Officer(s)	Allegation	Investigator Recommendation
A.POM Miguele Amoresano	Abuse: PO Miguele Amoresano questioned § 87(2)(b) and § 87(2)(b)	
B.POM George Penrod	Abuse: PO George Penrod questioned § 87(2)(b) and § 87(2)(b)	
C.POM Miguele Amoresano	Abuse: PO Miguele Amoresano searched § 87(2)(b)	
D.POM George Penrod	Abuse: PO George Penrod frisked § 87(2)(b)	
E.POM Miguele Amoresano	Abuse: PO Miguele Amoresano frisked § 87(2)(b)	
§ 87(2)(g), § 87(4-b)		
§ 87(4-b), § 87(2)(g)		

## Synopsis

On October 4, 2005, § 87(2)(b) filed a complaint with the CCRB over the phone. § 87(2)(b) alleged that at approximately 4:15 PM on September 22, 2005, he had been at a small waterfront park - later identified as Castle Hill Park - in the Bronx with a friend, § 87(2)(b). As § 87(2)(b) and § 87(2)(b) were talking, two police officers, later identified by the CCRB as PO George Penrod and PO Miguel Amoresano, both of PSA 8, parked their car on the street located above the waterfront area and called to § 87(2)(b) and § 87(2)(b) that they had received a 911 call about a couple arguing in the park. § 87(2)(b) and § 87(2)(b) told the officers that they were not arguing, but the officers descended a small embankment and approached the two civilians [**Allegations A and B**]. § 87(2)(b) alleged that PO Amoresano put his hands into § 87(2)(b)'s pockets, but then pulled them back out and asked § 87(2)(b) if he had any sharp objects [**Allegation C**]. § 87(2)(b) said that he had a pocketknife, and PO Amoresano retrieved the knife from § 87(2)(b)'s pocket. As PO Amoresano was dealing with § 87(2)(b), PO Penrod approached § 87(2)(b). § 87(2)(b) alleged that PO Penrod asked her if she had anything she "shouldn't have." When § 87(2)(b) said that she did not, PO Penrod frisked her front pants pockets [**Allegation D**]. In his CCRB interview, PO Amoresano stated that he frisked § 87(2)(b) so the allegation is also pleaded against him [**Allegation E**]. PO Penrod, upon seeing the knife, told § 87(2)(b) that the knife was illegal because it was a gravity-knife. The officers arrested § 87(2)(b) and took him to PSA 8 where he was subsequently issued a desk appearance ticket for criminal possession of a weapon.

PO Amoresano stated, both in his CCRB interview and in the arrest documentation, that the incident happened on Lacombe Avenue and not in Castle Hill Park. § 87(2)(b), § 87(2)(g), § 87(4-b)

§ 87(2)(b), § 87(2)(g)

### **Summary of Complaint**

## Complainant's Statements

§ 87(2)(b) is a § 87(2)(b) who is 6'0" tall, weighs 210 lbs., and has black hair and brown eyes. § 87(2)(b) initially filed a complaint with the CCRB on October 4, 2005 (encl. 11a-b). § 87(2)(b) He provided a statement over the telephone on October 11, 2005 (encl. 12a), and was interviewed at the CCRB on October 20, 2005 (encl. 13a-e). A follow-up phone call was placed to § 87(2)(b) on November 2, 2005. The following is a summary of his statements with discrepancies noted.

At approximately 4:15 PM on September 22, 2005, § 87(2)(b) and his friend § 87(2)(b) were talking in a small waterfront recreation area near Lacombe Avenue and Castle Hill Avenue in the Bronx. The access path to the waterfront area descends below the level of the street, but the street and nearby

houses are clearly visible from the waterfront. § 87(2)(b) and § 87(2)(b) had been in the area for approximately 15 minutes and were talking about possible business ventures. § 87(2)(b) said that it was possible that they had been talking loudly because the park is near LaGuardia airport and there were planes flying overhead. While they were talking, a blue Impala sedan stopped on the street above the access path to the waterfront and two white males in plainclothes got out. One of the males, PO1, identified by this investigation as PO George Penrod of PSA 8, was older, in his 40's, than the other officer. § 87(2)(b) stated that PO Penrod had sandy hair and had a white patch on the back of his head and was wearing khakis and white sneakers. In his initial CCRB complaint, § 87(2)(b) stated that PO Penrod was 5'7" tall, but in his interview he estimated that PO Penrod was 6'2". PO2, identified by this investigation as PO Miguel Amoresano of PSA 8, was in his late 20's or early 30's. § 87(2)(b) said that PO Amoresano was approximately 5'6", stocky, with black hair and a receding hairline and was wearing a t-shirt with its sleeves cut off and blue jeans. The two men pulled out badges and PO Amoresano said, "Excuse me." § 87(2)(b) and § 87(2)(b) turned their attention to the officers. PO Amoresano said something, but § 87(2)(b) could not hear him, so he walked to the base of the embankment where the officers were standing. PO Amoresano said, "We got a call that people were arguing out here." § 87(2)(b) and § 87(2)(b) both said, "No, nobody's arguing." The officers stepped over the guardrail, walked down a small embankment and jumped down a three-foot retaining wall. PO Amoresano met § 87(2)(b) and PO Penrod walked directly to § 87(2)(b) who was ten yards away. PO Amoresano walked up to § 87(2)(b) and put his hand halfway into § 87(2)(b)'s front pants pocket, pulled his hand out and said, "Do you have anything that's going to stick me?" § 87(2)(b) who works as a mover, often carries a pocketknife. § 87(2)(b) said, "Yeah, I've got a little knife with me, but it's folded up in my pocket." PO2 said, "Oh, that's good you told me the truth." § 87(2)(b) said, "Yeah, why not? There's nothing going on here." PO Amoresano reached into § 87(2)(b)'s pocket and took out the knife. He then had § 87(2)(b) stretch out his arms and patted him down, finding nothing. The officer took § 87(2)(b)'s wallet out of his pocket and opened it. § 87(2)(b) said that his wallet is full of various things, so he took the wallet from the officer, found his license and handed it to PO Amoresano, saying, "Here, take my license, go ahead and run it. I've never been to jail, I'm § 87(2)(b) and I've lived here all my life." PO Amoresano took his license, but did not run a check immediately. PO Amoresano was holding § 87(2)(b)'s knife, which § 87(2)(b) estimated has a 4 inch handle and 2.5 inch blade, and looking at it, when PO Penrod ran over from § 87(2)(b) grabbed the knife and said, "This is a gravity knife, I could take you to jail for this." § 87(2)(b) explained to PO Penrod that he had bought the knife "over the counter at a legal establishment," and that he did not know that it was illegal. § 87(2)(b) stated to the CCRB that the knife could not be flicked open, but had to be pulled open using a small knob on the blade and that once the blade was opened it clicked into place. § 87(2)(b) told PO Penrod to take the knife if it was illegal.

PO Amoresano got on his radio to run a check on § 87(2)(b)'s history and, as he did this, PO Penrod began to handcuff § 87(2)(b). § 87(2)(b) began to ask PO Penrod what was going on and why § 87(2)(b) was being handcuffed. PO Penrod repeatedly told § 87(2)(b) to "Calm down." § 87(2)(b) said, "I'm not arguing with you, I'm just asking you a question." § 87(2)(b) said that telling them to "Calm down," was PO Penrod's method of deflecting any question that he was asked. § 87(2)(b) said that while he and § 87(2)(b) were calm to begin with, PO Penrod's constant directions to calm down began to irritate them.

PO Penrod walked § 87(2)(b) up a ramped path that led up the embankment to the officers' sedan. § 87(2)(b) tried to ask the officers what was happening and where they were taking § 87(2)(b). She told the officers that it was outrageous that they were taking § 87(2)(b) and that she could not believe that this was happening. § 87(2)(b) said that he told her to let the officers do what they were going to do so the situation did not escalate. Meanwhile PO Penrod continued to tell § 87(2)(b) to calm down. § 87(2)(b) said, § 87(2)(b) you see what they do? They treat you like you're sub-human." § 87(2)(b) said that PO Penrod was getting upset because § 87(2)(b) was remaining calm and speaking intelligently to him. § 87(2)(b) told PO Penrod, "I'm a man, just like you, I have rights just like you. I have the right to ask you what's going on in my due process. You can't just literally take me somewhere. You didn't read me my rights, you didn't check my record, you're just taking me, but that's okay. Take me." § 87(2)(b) gave § 87(2)(b) his possessions and was put inside the sedan. The

officers gave § 87(2)(b) the address of the station house that they were taking § 87(2)(b) to and left.

On the way to the station house the officers told § 87(2)(b) that he would be given a citation and then released in 20 minutes. After being in the cell for an hour, § 87(2)(b) asked PO Penrod what was taking so long. PO Penrod told § 87(2)(b) that they were waiting for Albany to call back with the results of a check on § 87(2)(b)'s fingerprints. At 8:15 PM § 87(2)(b) was released with a desk appearance ticket.

§ 87(2)(b) said that § 87(2)(b) later told him that while PO Amoresano was frisking him, PO Penrod had frisked her, but he did not observe the frisk.

### **Victim's Statement**

§ 87(2)(b)

§ 87(2)(b) is a § 87(2)(b) white female who resides in Suffern, New York. She is 5'5" tall, weighs 140 lbs., and has brown hair and hazel eyes. § 87(2)(b) was interviewed at the CCRB on October 20, 2005 (encl. 14a-d).

§ 87(2)(b) said that she and § 87(2)(b) were in the park and were having a "heated" discussion about politics. She was sitting on the ground while § 87(2)(b) was standing. § 87(2)(b) stated that as PO Amoresano and PO Penrod approached where she and § 87(2)(b) were talking, one of them said that they had received a call about two people arguing. § 87(2)(b) who was standing, approached both officers and told them that he and § 87(2)(b) were just talking. § 87(2)(b) said that she believed that PO Penrod, who she described as being a white male in his thirties who was approximately 5'8" tall and "dumpy," frisked § 87(2)(b). One of the officers asked § 87(2)(b) if he had anything that he should not have, and § 87(2)(b) told them that he had a knife, retrieved it, and handed it to one of the officers. § 87(2)(b) could not recall whether § 87(2)(b) was searched before or after he handed the knife to the officers. PO Penrod then approached § 87(2)(b) and asked her if she had anything that she should not have. § 87(2)(b) answered that she did not, and PO Penrod briefly frisked the fronts of her pants pockets. He then told § 87(2)(b) that his pocketknife was illegal and that he should not have it. § 87(2)(b) told the officers that he had not known that the knife was illegal and that he used it for his work as a mover. PO Penrod said, "You're not working now, are you?" § 87(2)(b) acknowledged that he was not, and the officers began to handcuff him. § 87(2)(b) tried to protest that § 87(2)(b) had obviously not known that the knife was illegal, or he would not have been so forthcoming about possessing it. She asked the officers if they could give § 87(2)(b) "a break" because he had given them the knife. One of the officers replied that they were giving him a break by not booking him. § 87(2)(b) said that she remembered hearing PO Penrod say to PO Amoresano – who she described as a white male who was 5'6" tall and younger than PO Penrod – "Just watch these prints come back dirty." § 87(2)(b) stated that § 87(2)(b) was very "cool" throughout the encounter and even told her to let the officers do what they were going to do. She described him as being compliant and "stellar." At no point during the interaction did either of the officers ask § 87(2)(b) for her identification.

When § 87(2)(b) was released from the stationhouse, PO Amoresano told § 87(2)(b) "I wouldn't worry about this, these charges will be dismissed."

### **Results of Investigation**

#### **Overview**

#### ***Field Trip***

During the course of this investigation, the CCRB visited the different vicinities of the incident indicated by the civilians, PO Amoresano, and the police records. Both civilians stated that the incident occurred inside of a small waterfront park, although neither of them knew the name of the park. § 87(2)(b) stated that

it was located two blocks south of the intersection of Castle Hill Avenue and Lacombe Avenue (map encl. 5a, satellite photo 6a). In his CCRB interview § 87(2)(b) described how, to reach where he and § 87(2)(b) were talking inside the park, the officers exited their car – parked on the roadway above the park – and climbed over a guardrail and down a short embankment before jumping down a three-foot tall retaining wall. The CCRB visited this location, named Castle Hill Park, and found that these features were present in the park, just as § 87(2)(b) had described them. The CCRB took several photographs of the park (encl. 11a-b).

The CCRB also visited and photographed the section of Lacombe Avenue in front of 2175 Lacombe, part of the Castle Hill Houses public housing development (containing 2173 Lacombe), the incident location as indicated in the complaint report and command log entry created for § 87(2)(b)'s arrest (encl. 10a-b). This location is just west of the intersection of Lacombe and Castle Hill Avenue, two blocks north of Castle Hill Park. It is a wide, two-way avenue with room for parking on both sides of the street. The Castle Hill Houses are on the north side of the street, while small commercial and residential properties line the south side.

In searching for 1711 Lacombe Avenue, the incident location listed in PO Amoresano's memo-book, the CCRB found that the westernmost buildings on the westernmost block of Lacombe Avenue were 1740 on the south side of the street, and 502 Rosedale Avenue on the north side of the street. Further map inquiries found that 1711 Lacombe Avenue is the southwestern building in the Sound View Houses public housing development (satellite photo encl. 8a). 1711 is not located on a functioning section of Lacombe Avenue, but is approximately 100 yards west of where Lacombe intersects with Rosedale Avenue and ends. A parking lot borders the southern side of 1711 Lacombe Avenue. There is not a street in the immediate vicinity of 1711 Lacombe Avenue.

## **Officers' Statements**

### ***PO Amoresano***

#### ***Memo Book***

PO Amoresano's memo-book entry for this incident reads (encl. 15a-b):

*1600 – 1 under 265.01 opp. 1711 Lacombe Ave.  
1610 – 84 @ PSA8*

The "1711" written in PO Amoresano's memo-book was written over another building number that began with a two and the third digit of which is a seven. The change was not initialed or dated.

#### ***Complaint Report***

The complaint report filed by PO Amoresano documents that § 87(2)(b) was arrested at 4:00 PM on September 22, 2005 (encl. 16a-b). The location of the arrest was listed as "opposite of 2173 Lacombe Avenue." The narrative of the arrest reads, "At TPO deft. was in possession of a gravity knife." The complaint report shows that the knife was taken and vouchered as arrest evidence.

#### ***Initial CCRB Statement***

PO Miguel Amoresano is a § 87(2)(b). PO Amoresano is a six-year veteran of the NYPD. He was interviewed at the CCRB on February 21, 2006 (encl. 17a-b).

At approximately 4:00 PM on September 22, 2005, PO Miguel Amoresano was doing plainclothes patrol with PO George Penrod. They were assigned to a gray, unmarked Impala, RMP #9460. As they were driving they observed a male and a female walking in the opposite direction from the officers along Lacombe Avenue, a two way street. PO Amoresano, who was driving, said that he was able to see that the

male had a knife “clipped onto his pants.” The knife was inside a pocket, but the clip and the end of the knife were sticking out. PO Amoresano said that he did not recall the male wearing any articles of clothing that hung down below the waistline. PO Amoresano acknowledged that a lane of traffic separated him from the male, but estimated that the male was five feet away from him when he observed the knife. PO Amoresano stopped his car and watched the couple. He then exited his car and approached the male. He told the male to keep his hands where he could see them, and recovered the knife. PO Amoresano described the knife as being “small” and said that it was a “gravity knife.” He did not remember the length of the knife and said that because it was a gravity knife, he did not measure it. PO Amoresano stated to the CCRB that prior to seeing that the knife in question was a gravity knife, he had intended to stop and arrest the male for having a knife in public view. PO Amoresano put the male in handcuffs, and searched him. PO Amoresano then asked the female if she had any weapons. He frisked her, asked her for her license and wrote down her information in order to fill out a Stop and Frisk Report.

PO Amoresano stated that the frisk of the female was conducted “to make sure that she did not have any weapons on her.” He stated that there were no indications that the female was armed and that there was no contact between the male and female after PO Amoresano stopped them.

PO Amoresano said that the couple was not initially cooperative, that the male accused the officers of “harassing” him. PO Amoresano explained that carrying a knife was illegal in New York City. He said that the female was not from the city and did not know the laws, but tried to say that she knew people on the police department. PO Amoresano told her that it did not matter. He stated to the CCRB that there was no discussion about the male’s job and the necessity of carrying a knife. PO Amoresano said that he handled the arrest processing and remembered that he “put (the male) in for a DAT.”

#### *Second CCRB Statement*

PO Amoresano was re-interviewed at the CCRB on December 14, 2006 (encl. 18a-b). PO Amoresano listened to his earlier CCRB statement prior to the interview. He also was shown the CCRB’s copy of his memo-book and confirmed that it was his. At the beginning of the interview, the CCRB noted that the incident location alleged by the civilians was Castle Hill Park.

PO Amoresano said that he had worked in the vicinity of the incident for six and a half years. He said that he had worked in the area as a community-policing officer and an anti-crime officer. He also said that he had made multiple arrests for possession of a knife. He was unable to remember approximately how many such arrests he had made. When asked if it was more than ten, he said that he did not know.

Referring to the arrest location noted in his memo-book, opposite 1711 Lacombe Avenue, PO Amoresano said that if the arrest took place in a park, he would note the building across the street from a park. PO Amoresano confirmed that 1711 Lacombe Avenue was across the street from a park, but did not know the name of the park. He said that the park, which was on Lacombe Avenue, was bounded by two cross streets, but he did not know the name of the cross-streets. The CCRB provided PO Amoresano with a map of the Sound View, Castle Hill, and Clason Point sections of the Bronx, and asked him to show the approximate position of 1711 Lacombe Avenue on the map. PO Amoresano indicated on the map that 1711 Lacombe Avenue was positioned near the intersections with Castle Hill Avenue, Howe Avenue, Torry Avenue and Olmstead Avenue, part of the eastern/central portion of Lacombe Avenue. He also indicated that the buildings on the north side of this section of Lacombe Avenue are the Castle Hill Houses.

The CCRB showed PO Amoresano a copy of the complaint report that he filed in conjunction with § 87(2)(b)s arrest, noting that the complaint report documented the place of arrest as being “opposite of 2173 Lacombe Avenue.” When asked to explain the difference between the address in his memo-book and the address in the complaint report, PO Amoresano said that it was probably a “typo” and noted that he did not enter the information into the computer. PO Amoresano confirmed that he provided the information contained in the complaint report. He said that he provided the details in what he called a “scratch copy,” the content of which was then entered into the computer system.

The CCRB showed PO Amoresano photographs looking west and east along Lacombe Avenue near where Lacombe Avenue intersects with Howe Avenue (these photographs were taken in front of 2175 Lacombe Avenue). PO Amoresano was told that the photographs depicted where he had indicated on the map that 1711 Lacombe Avenue was located. PO Amoresano stated that the photographs did not depict the vicinity of the incident location, and said that 1711 Lacombe Avenue was actually west of where the photographs had been taken. When asked if it was more than a block west, PO Amoresano said that it was “actually in the Sound View area.” He indicated on the map that 1711 was, in fact, located near the western termination of Lacombe Avenue. He said that he was mistaken when he had said that 1711 Lacombe Avenue was near the Castle Hill Houses, and said that it was actually near the Sound View Houses.

When the CCRB pointed out to PO Amoresano that it appeared, in his memo-book entry, that the building number 1711 had been written over another number beginning with two and containing seven as the third digit, he said that he did not recall why this change had been made. When asked if it was possible that the address that had been originally written in the memo-book, which appears to correspond to the incident location documented on the complaint report, was where the incident happened, PO Amoresano said, “Not to my knowledge.” When asked for any possible explanation for why he had changed the building number in his memo-book, PO Amoresano only cited “misspelling” as a possibility.

PO Amoresano said that the block where 1711 Lacombe Avenue is located is a standard block with two-way traffic, and said that there is space on either side of the street for cars to park. He did not recall if there were cars parked on the side of the street at the time of the incident. PO Amoresano confirmed that § 87(2)(b) had been on the sidewalk at the time of the sighting. Referring to PO Amoresano’s earlier assertion that there had been only five feet between him and § 87(2)(b) when he observed that § 87(2)(b) was in possession of a knife, the CCRB asked PO Amoresano if it was accurate to say that there had been a lane of traffic and space for parked vehicles between where he was driving and where § 87(2)(b) had been walking. PO Amoresano stated that this was correct. When he was asked if, considering these circumstances, it was possible that there had been more than five feet between himself and § 87(2)(b) PO Amoresano replied, “It’s possible, but whatever...I don’t...whatever one person sees, it could be different.”

PO Amoresano initially stated that he was not familiar with Castle Hill Park, but, when it was pointed out to him on a map, he said that he had “seen” it. When asked if he had made any arrests or stops inside the park, he said that he had. He stated that there were no chronic conditions inside the park that he was aware of, and said, “We usually don’t go down there.” The CCRB told PO Amoresano that the complainants alleged that the incident took place inside Castle Hill Park, but PO Amoresano maintained that the incident occurred on the western end of Lacombe Avenue. He then said that he was not sure if the incident occurred directly in front of 1711 Lacombe Avenue, but said that “usually, we use (the address of) the closest housing development to where the incident occurred.

PO Amoresano could not remember which direction he was travelling when he observed § 87(2)(b) but confirmed that § 87(2)(b) was on the sidewalk on the opposite side of the street from where the officers were driving. PO Amoresano was unable to remember where, in relation to § 87(2)(b) § 87(2)(b) was walking or which pocket the knife was in, but said that it was visible from the street. PO Amoresano reiterated that he had initiated the stop and then conducted both the frisk and search of § 87(2)(b) and the frisk of § 87(2)(b). When asked if it was possible that PO Penrod had filled out a stop and frisk report for § 87(2)(b) PO Amoresano said that he did not think that it was. When asked if he remembered specifically filling out the stop and frisk report for her, PO Amoresano then said that he did.

### ***PO George Penrod***

PO Penrod is a § 87(2)(b). PO Penrod has a blond spot on the rear of his head. PO Penrod is a 15-year veteran of the NYPD. He was interviewed at the CCRB on November 22, 2006 (encl. 19a-b).

### *Memo Book*

PO Penrod did not have his memo-book in which he recorded this incident. He stated to the CCRB that his memo-book was lost when, after being injured shortly after this incident, his clothes were cut away from his body.

### *CCRB Statement*

PO Penrod stated that he did not recall the incident. He was told the circumstances of the incident and was shown photographs of § 87(2)(b) and § 87(2)(b) but did not remember anything about the incident. He stated that during the time period of the incident he was working SNEU. He stated that he often worked with PO Amoresano and that they had performed plainclothes patrols together. PO Penrod stated that he had used unmarked Impala sedans for plainclothes work. He also stated that he was familiar with the area around Castle Hill Park, Pugsley Creek Park, and Sound View Park, and said that often drug activity from the surrounding public housing developments, including the Monroe Houses and Castle Hill Houses, found its way into the parks. He said that he had made numerous arrests in the area for drugs and weapons. He stated that he had made and been involved in many arrests in the vicinity of the parks as well as inside the parks themselves. PO Penrod stated that it was very uncommon for someone to be arrested for possession of a knife and then issued a DAT. He said that it seemed as though someone did § 87(2)(b) a favor. PO Penrod defined a gravity knife as any knife that could be opened by flicking the wrist instead of pulling out the blade. He stated that the length of the knife did not matter.

### **Police Documents**

#### *SPRINT Communications Documents*

There were no SPRINT communication records generated in the vicinity of Castle Hill Park, 1711 Lacombe Avenue, or 2175 Lacombe Avenue at the time of the incident (encl. 28a).

#### *Stop, Question, and Frisk Report Index*

A request for UF-250 reports for a stop of § 87(2)(b) and § 87(2)(b) on September 22, 2005 was returned with negative results from PSA8 (encl. 28b). An index of UF-250 reports from PSA8 shows that there were no UF-250 reports filed for § 87(2)(b) on the date of the incident (encl. 20a-c).

#### *Desk Appearance Ticket*

The Desk Appearance Ticket issued to § 87(2)(b) by PO Amoresano notes that he was charged with a violation of penal law 265.01 (encl. 21a).

#### *Property Voucher*

Property voucher § 87(2)(b) is listed as a “black handle gravity knife” recovered as arrest evidence from § 87(2)(b) (encl. 22a).

#### *Roll Call*

The tour 2 roll call for PSA8 on September 22, 2005 shows that PO Amoresano was assigned to anti-crime, but was scheduled to appear for corporation counsel (encl. 23a-b). The tour 3 roll call shows that PO Penrod was initially assigned to anti-crime, but was changed to act as cell attendant.

#### *Command Log*



The PSA8 command log notes that § 87(2)(b) was arrested by PO Amoresano at 4:00 PM and was present at the stationhouse at 4:08 PM (encl. 24a). The arrest location was noted as “opp. 2175 Lacombe Ave.” He was issued DAT § 87(2)(b) and was released at 8:15 PM.

### ***Prisoner Holding Pen Roster***

The PSA8 holding pen roster shows that § 87(2)(b) was introduced to the holding pen at 4:10 PM and was released at 8:15 PM (encl. 25a).

### **Status of Criminal Case**

There is no record of § 87(2)(b)'s DAT according to OCA. § 87(2)(b) called the CCRB following his scheduled court date and said that the charge against him had been dismissed.

### **Civilian Criminal History**

Neither § 87(2)(b) nor § 87(2)(b) have a record of arrest in New York City.

### **Officers' CCRB History**

Neither PO Penrod nor PO Amoresano have had a CCRB allegation against them substantiated.

### **Civil Court Case**

Neither § 87(2)(b) nor § 87(2)(b) filed a notice of claim for an incident occurring on September 22, 2005.

## **Conclusions and Recommendations**

### **Officer Identification**

The documents related to § 87(2)(b)'s arrest identify PO Amoresano as the arresting officer. PO Amoresano acknowledged arresting § 87(2)(b) and stated that his partner during the arrest was PO Penrod. § 87(2)(b) described the officer who initially searched and frisked him – the younger of the two officers - as being a white male in his late 20's or early 30's who was approximately 5'6" tall with dark hair and a receding hairline. § 87(2)(b) also described this officer as being approximately 5'6" tall. This description matches that of PO Amoresano, who is a 29 year-old light-skinned Hispanic male, 5'5" tall, with black, thinning hair. § 87(2)(b) described the officer who approached § 87(2)(b) as being a white male in his 40's, with sandy hair and a white patch on the back of his head. He initially stated that this officer was approximately 5'7", but in his CCRB interview he described him as being 6'2". § 87(2)(b) described the officer who approached her as being a white male in his 30's who was approximately 5'8" tall and “dumpy.” § 87(2)(b)'s description is close to that of PO Penrod, who is a 39 year-old white male, 5'9" tall and weighs 200 lbs. While § 87(2)(b) described the officer as being 6'2" tall, PO Penrod does have a light-blond patch of hair on the back of his head.

§ 87(2)(b), § 87(2)(g)

Because of this, and because PO Penrod stated that he could not remember the incident, the questioning of § 87(2)(b) and § 87(2)(b) is pleaded against PO Penrod and PO Amoresano. Because § 87(2)(b) stated in each of his three statements to the CCRB that the officer fitting the description of PO Amoresano searched him, and because PO Amoresano stated that he searched § 87(2)(b) this search is pleaded against PO Amoresano. Because § 87(2)(b) said that the officer fitting the description of PO Penrod frisked her, and because § 87(2)(b) said that he observed PO Penrod approach § 87(2)(b) the frisk of § 87(2)(b) is pleaded against PO Penrod. While the investigation credits § 87(2)(b) and § 87(2)(b) who both

indicated that PO Penrod performed the frisk, PO Amoresano testified that he frisked § 87(2)(b)  
Therefore, the allegation is also being pleaded against PO Amoresano. § 87(2)(b), § 87(2)(g), § 87(4-b)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)

### Undisputed Facts

It is undisputed that § 87(2)(b) was stopped by PO Amoresano and PO Penrod, that § 87(2)(b) was found to be in possession of a pocketknife and was arrested and that § 87(2)(b) was frisked.

§ 87(2)(b), § 87(2)(g)

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§ 87(2)(b), § 87(2)(g)

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§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

### Allegations and Analysis

**Allegation A: PO Miguele Amoresano questioned § 87(2)(b) and § 87(2)(b)**

**Allegation B: PO George Penrod questioned § 87(2)(b) and § 87(2)(b)**

In her statement, § 87(2)(b) said that she and § 87(2)(b) were involved in a “heated” conversation about politics when the officers approached them. § 87(2)(b) stated that they were speaking to each other about possible business ventures, but said that they may have been speaking loudly because of the stream of air-traffic in the area. Both civilians said that when the officers approached them they stated that they had received a call of people arguing at the location. Multiple SPRINT communication record requests yielded no 911 calls regarding any kind of dispute in the area where the incident occurred.

§ 87(2)(b), § 87(2)(g)

**Allegation C: PO Miguele Amoresano searched § 87(2)(b)**

In all three of his statements to the CCRB, § 87(2)(b) stated that the officer identified as PO Amoresano approached him, put his hands into § 87(2)(b)'s front pockets, pulled them back out and asked if § 87(2)(b) had anything sharp in his pockets. § 87(2)(b) told PO Amoresano that he had a pocketknife, and PO Amoresano then removed the knife from § 87(2)(b)'s pocket. PO Amoresano – who stated that the incident occurred at a different location – said that, upon seeing a knife clipped to § 87(2)(b)'s pants he stopped his vehicle, approached § 87(2)(b) who was walking, stopped him, and retrieved the knife. He then handcuffed § 87(2)(b) and searched him incidentally to his arrest for possession of a gravity knife. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

PO Amoresano stated to the CCRB that he intended to arrest § 87(2)(b) as soon as he observed the knife clipped to § 87(2)(b)'s pocket, based on the grounds that having a knife in public view is illegal in New York. However, this contention is not entirely true – section 10-133 of the New York Administrative Code states that it is unlawful for any person to carry a knife in open view unless that person is “using such knife for a lawful purpose...(Appendix A)” The Administrative Code goes on to provide several exceptions to the prohibition on openly carrying a knife, including where the knife “is being used for or transported immediately to or from a place where it is used for hunting, fishing, camping, hiking, picnicking or any employment, trade, or occupation customarily requiring the use of such knife.”

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

The standard set in *NYPD v. Dowd and Rose* holds that if an officer acts “without concern for the propriety of his actions,” or, “without due and reasonable care that his actions be proper,” that officer, in effect, is acting in bad faith (Appendix B). § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

**Allegation D: PO George Penrod frisked § 87(2)(b)**

**Allegation E: PO Miguel Amoresano frisked § 87(2)(b)**

§ 87(2)(b) stated that the officer matching the description of PO Penrod approached her and asked her if she had anything that she should not have, and when she answered that she did not, he frisked her front pockets. § 87(2)(b) said that, as PO Amoresano was dealing with him, he saw PO Penrod approach § 87(2)(b). He repeated in all of his statements to the CCRB that § 87(2)(b) told him later that the older officer had frisked or searched her pockets. PO Penrod stated that he did not remember the incident, but PO Amoresano stated that he, and not PO Penrod, frisked § 87(2)(b) for his own safety, although he acknowledged that there were no indications that she was armed. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

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